

Article - Insurance

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§15–1628.2

(a) For disputes regarding cost pricing and reimbursement under a participating pharmacy contract, each participating pharmacy contract must include a process to appeal, investigate, and resolve disputes regarding cost pricing and reimbursement that includes:

(1) a requirement that an appeal be filed by the contract pharmacy not later than 21 days after:

- (i) the date a direct or indirect remuneration fee is charged; or
- (ii) another date as determined by the Commissioner;

(2) a requirement that a pharmacy benefits manager make available on its website information about the appeal process, including:

(i) a telephone number at which the contracted pharmacy may directly contact the department or office responsible for processing appeals for the pharmacy benefits manager to speak to an individual or leave a message for an individual who is responsible for processing appeals;

(ii) an e-mail address of the department or office responsible for processing appeals to which an individual who is responsible for processing appeals has access; and

(iii) a notice indicating that the individual responsible for processing appeals shall return a call or an e-mail made by a contracted pharmacy to the individual within 3 business days or less after receiving the call or e-mail;

(3) a requirement that a pharmacy benefits manager provide:

(i) a reason for any appeal denial; and

(ii) the mathematical calculation used to determine the amount of reimbursement; and

(4) if an appeal is upheld, a requirement that a pharmacy benefits manager:

(i) make adjustments as necessary to comply with the compensation program as stated in the participating pharmacy contract as of the date the appeal was determined; and

(ii) provide notice to the pharmacy or pharmacy's contracted agent that an appeal has been upheld.

(b) A pharmacy benefits manager may not retaliate against a contracted pharmacy for exercising its right to appeal under this section or filing a complaint with the Commissioner under this section.

(c) A pharmacy benefits manager may not charge a contracted pharmacy a fee related to the readjudication of a claim or claims resulting from the upholding of an appeal under subsection (d) of this section.

(d) (1) If a pharmacy benefits manager denies an appeal and a contracted pharmacy or a designee of the contracted pharmacy files a complaint with the Commissioner, the Commissioner shall:

(i) review the compensation program of the pharmacy benefits manager to ensure that the reimbursement for pharmacy services paid to the pharmacist or a pharmacy complies with this subtitle and the terms of the participating pharmacy contract; and

(ii) based on a determination made by the Commissioner under item (i) of this paragraph, dismiss the appeal or uphold the appeal and order the pharmacy benefits manager to pay the claim or claims in accordance with the Commissioner's findings.

(2) On request, the pharmacy benefits manager shall provide to the Commissioner all mathematical calculations, accounts, records, documents, files, logs, correspondence, or other information necessary to complete the Commissioner's review.

(3) All information and data collected by the Commissioner during a review:

(i) is considered to be confidential and proprietary information; and

(ii) is not subject to disclosure under the Public Information Act.

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